

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DICKEY'S BARBECUE RESTAURANTS,
INC.,

Plaintiff,

v.

LIRA, LLA and LUIGI MANGIONE,

Defendants.

3:10-CV-300P

MOTION TO VACATE HEARING

Comes Now, Defendants, Lira, LLC, and Luigi Mangione (Mangione) and move this Court for an Order vacating the show cause hearing currently scheduled for July 21, 2010. In support thereof, Mangione has shown the following:

1. Defendants are currently in compliance with the Court's Orders in this matter.
2. Through new counsel, Defendants are seeking to resolve this matter with Plaintiff and bring the matter to conclusion.
3. Defendant is financially unable to personally appear before the Court to show cause why he had not come into compliance with the Court's orders sooner.

4. Defendants' prior counsel had incorrectly advised Defendant that all matters would be resolved upon the filing of a bankruptcy petition and that personal appearance before the Court was unnecessary.
5. Defendants' current counsel has agreed to personally verify compliance with this Court's Orders, and withdraw as counsel if they are not being complied with.
6. Defendant's current counsel provided the accounting information to Plaintiffs counsel within minutes of receiving such information from my accountants.

Dated this 19th Day of July, 2010

/s/ Michael J. McDonagh

Michael J. McDonagh
Counsel for Defendants

Certificate of Service

On I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

/s/ Michael J. McDonagh